IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No. 3753 of 1997

Between:

Depot Manager, APSRTC
Dilsukhnagar, Hyderabad-500660

..... PETITIONER

AND

1 V. Ayodhya s/o. V. Narahari,
H-No. 5-70, Bhavani Nagar, Dilsukhnagar
Hyderabad.

2 Presiding Officer, Labour Court-I
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the award in I.D. No. 7 of 1994 Dt. 28/6/1996 on the file Labour Court-I, Hyderabad and quash the same as arbitrary illegal by way of issue a writ of certiorari or any other appropriate writ or order or orders.

Counsel for the Petitioner : MR.V.T.M.PRASAD (S.C.FOR APSRTC)

Counsel for the Respondent No.2 : GP FOR LABOUR

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the A.P. State Road Transport Corporation, (hereinafter referred to 'the Corporation') aggrieved by the Award of the Labour Court in I.D.No. 7 of 1994, dated 28.6.1996.

2. The 1st respondent herein was working as driver under the petitioner-Corporation from the date of his appointment i.e., 9-12-1980. It is stated that his services were terminated by order, dated 17.1.1983 on the ground that he was found to be having vision defect i.e., colour blindness. Therefore, the 1st respondent-workman moved the Labour Court raising the above industrial dispute. The said claim of the workman was opposed by the Corporation.

The Labour Court, after considering the material on record, set aside the order of removal and directed reinstatement of the workman either as conductor or in any other suitable job considering the age and seniority of the petitioner by giving him continuity of service and other attendant benefits with 50% of back-wages.

Aggrieved by that, the Corporation has come up with the present writ petition.

3. The learned counsel for the petitioner-Corporation contended that though the workman was appointed as a driver, but in the routine medical check up, he was found to be having vision defect i.e., colour blindness. Therefore, his case was referred to the Sarojinidevi Eye Hospital, Hyderabad to get him examined, and basing on the report of the doctors, orders were passed terminating the services of the workman. Therefore, there was no illegality or irregularity in the impugned order to set aside the same. The learned counsel also contended that the Labour Court was not justified in ordering reinstatement with continuity of service as well as to pay part of the back-wages, as the workman did not render any service to the Corporation from January 1993 to June 1996. Therefore, the award of the Labour Court is illegal and unsustainable.

4. Though notice is served on the respondent-workman, none appeared. Therefore, the matter is heard and disposed of on merits considering the material on record.

5. From the material on record it is clear that the respondent-workman was appointed as driver on 9.12.1980, and worked as such till the impugned order dated

17.1.1993 was passed. It is stated that there was absolutely no complaint or remark against the respondent-workman during the entire period of his services. No doubt in the course of routine medical checkup, his vision was found to be defective by the doctors. In fact, the Corporation referred the workman to the Sarojinidevi Eye Hospital and a panel of doctors confirmed the defect of colour blindness. But, however, instead of providing any other alternative employment to the workman, the Corporation terminated his services. The Labour Court referred to the Reg.6-A (iv) of the APSRTC Service Regulations, 1964, and held that if any of the employees medically found unfit to serve as driver, he should be provided with alternative employment. Therefore, the Corporation is to provide alternative employment instead of terminating the services of the workman. Therefore, the Labour Court has rightly set aside the order of termination and directed the Corporation to reinstate the workman either as conductor or in any suitable post with continuity of service. The said order passed by the Labour Court is, in fact, in conformity with the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Labour Court also after considering the claim as to the back-wages awarded only 50%, though under the circumstances the workman is entitled for full wages.

6. Under the above circumstances, the award passed by the Labour Court is justified and does not call for any interference.

7. The Writ Petition is accordingly dismissed. No costs.

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S.Ananda Reddy, J.

Dt. 16.09.2004

Kvh

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Presiding Officer, Labour Court-I, Hyderabad.

2. Two CD Copies.